

Mrs M Sheridan
4 Camilla Drive
Oak Lane
Billericay
Essex
CM11 2YH

Date 1.10.10
Please ask for Mrs T Bath
Department HOUSING SERVICES
Tel. No 01268 294073
Ref 3942

Dear Mrs Sheridan

**HOUSING ACT 1996 - PART VII(AS AMENDED 2002)
SECTION 184 NOTICE**

Following your initial homeless application on 12th July 2010, I have now completed my enquires under the above Act.

I am satisfied that you are homeless, however you are not eligible or in priority need for accommodation under Section 189 of the above Act. The reason for this decision is as follows:-

Please see the enclosed report

This means that I am unable to provide you with temporary accommodation.

If you would like general advice or information on housing within the District, please call into the Basildon Centre and speak to an Assessment Officer.

You have the right to a review of this decision if you believe it is wrong. If you would like a review, please write to the Reviews and Performance Officer at the above address within **21 days** of receiving this decision letter. The review will be undertaken by a Panel of at least two Senior Housing Officers, who have not been involved in the original decision.

Following the review, if you do not agree with the decision of the Review Panel, you can appeal to the County Court on a point of law. If you wish to do this, you must appeal in writing within **21 days** of receiving the review decision letter.



If you wish to seek independent advice regarding this decision, the following may be of assistance:-

SHELTER

SHELTER
Essex & Suffolk HAC
Tudor House
13 East Stockwell Street
Colchester
Essex
CO1 1SS
Tel. No. 0844 515 1860/ 0808 8004444

.....

CITIZENS ADVICE BUREAU

Tel. No.	01268 522210	Basildon
Tel. No	01277 651858	Billericay
Tel. No.	01268 732094	Wickford

You may also seek independent legal advice from a Solicitor.

Yours sincerely



Homelessness Officer

c.c. Gratton Puxon ✓
c.c Kate Lomax, Davies Gore Lomax Solicitors

FINAL HOMELESS CASE REPORT **IN RESPECT OF**

Margaret Sheridan

FAMILY UNIT:

Margaret Sheridan DOB 7.12.57

REASON FOR HOMELESSNESS: The applicant has accommodation, which consists of a mobile structure, but Mrs Sheridan has nowhere she is legally permitted or entitled to place it and reside in it.

BACKGROUND TO CASE:

Mrs Margaret Sheridan made a homeless application to Basildon District Council on the 12th July 2010 having been served with an eviction notice to vacate the unauthorised Travellers site at 4 Camilla Drive, Crays Hill, CM11 2YH.

Findings

Not everyone qualifies for help from a Local Housing Authority under the homelessness provisions. There is an 'eligibility' test and, because of that that, one of the first inquiries that a Local Housing Authority must make of an applicant for assistance is whether he or she is eligible to obtain any help at all. (Housing Act 1996, s.184(1)(a)).

Homelessness

Mrs Margaret Sheridan has been served with a notice of eviction as planning permission was refused for 4 Camilla Drive Dale Farm. Given this information I am satisfied that this Authority had at time of application 'reason to believe' that Mrs Sheridan may be homeless or threatened with homelessness, that this Authority shall make such inquiries to satisfy ourselves whether

1. Mrs Sheridan is eligible for assistance and
2. If so, whether any duty, and if so what duty, is owed to her.

Eligibility

In accordance with Section 185, certain person from abroad are not eligible for housing assistance these include a person subject to immigration control and a person from abroad other than a person subject to immigration control.

In order to satisfy ourselves that an applicant is not a person from abroad who is eligible or ineligible for housing assistance it is normal practise for this

Authority to request either a copy of the birth certificates, full if they are born after 1983, or a copy of their passport or immigration documents.

The refusal to supply the documentation placed this Authority into a difficult situation in making necessary inquiries as Mrs Sheridan has provided no evidence to satisfy ourselves of her status and identity, as this Authority cannot locate copies of her birth certificate or passport, despite a written request.

Furthermore, Mrs Sheridan indicated that she travelled prior to coming to Dale Farm and never held a previous local authority tenancy. Therefore I am also unable to confirm eligibility through this route.

Section 15 of the Housing Options application form, signed and dated 24.6.10 and received by BDC on 12th July 2010 shows a checklist of the supporting documents which are required to be provided, including full birth certificate/passport at the time of the application. These details were not received and so a further reminder letter was sent to Mrs Sheridan, her Solicitors and her advocates on the 18th August 2010.

To date I have not received any supporting information from Mrs Sheridan.

Therefore I am not satisfied that Mrs Sheridan is eligible for assistance as homeless.

Homelessness

In determining homelessness I have taken into account S175(2)(b) of the Housing Act 1996 – Part VII and the Code of Guidance 8.17. 'A person is homeless if he or she has accommodation available for his or her occupation which is a moveable structure, vehicle or vessel designed or adapted for human habitation (eg a caravan or houseboat) and there is nowhere that he or she is entitled or permitted to place it and reside in it. The site or mooring for the moveable structure need not be permanent in order to avoid homelessness. In many cases the nature of the structure may reflect the itinerant lifestyle of the applicant, who may not be looking for a permanent site but somewhere to park or moor on a temporary basis'. I am satisfied that Mrs Sheridan has been served an eviction notice to vacate the unauthorised Travellers site at 4 Camilla Drive, Dale Farm and is therefore under the threat of being made homeless.

Priority Need

In determining priority need, I have taken into account S189(1) of the Housing Act 1996 – Part VII and the Code of Guidance 10.2. Section 189(1) © of the Housing Act 1996 Part VII states that an applicant is on priority need for accommodation if they are vulnerable as a result of old age, physical disability, mental illness or incapacity or other special reason. In each case vulnerability is defined as being, when homeless, less able to fend for themselves than the average homeless person, so that injury or detriment will occur in circumstances where a less vulnerable person would be able to cope without ill effects (R v Camden LBC ex parte Pereira).

Section 189 (1) and the Homelessness (Priority Need for Accommodation) (England) Order 2002 provides that the following categories of applicant have a priority need for accommodation:

- 1) a pregnant woman or a person with whom she resides or might reasonably be expected to reside;

Mrs Sheridan has not indicated on the application form that she is pregnant..

- 2) a person with whom dependent children reside or might reasonably be expected to reside;

Mrs Sheridan's Housing Options application is in her sole name with no other family members or dependant children indicated.

- 3) a person who is vulnerable as a result of old age, mental illness or handicap or physical disability or other special reason, or with whom such a person resides or might reasonably be expected to reside;

I took into consideration the following sections from the Code of Guidance 2006:

10:13 It is a matter of judgement whether the applicant's circumstances make him or her vulnerable. When determining whether an applicant in any of the categories set out in paragraph 10:12 is vulnerable, the local authority should consider whether, when homeless, the applicant would be less able to fend for him/herself than an ordinary homeless person so that he or she would suffer injury or detriment, in circumstances where a less vulnerable person would be able to cope without harmful effects.

10:14 Some of the factors which may be relevant to determining whether a particular category of applicant is vulnerable are set out below. The assessment of an applicant's ability to cope is a composite one taking into account all of the circumstances. The applicant's vulnerability must be assessed on the basis that he or she is or will become homeless, and not on his or her ability to fend for him or herself while still housed.

10:15 Old age alone is not sufficient for the applicant to be deemed vulnerable. However, it may be that as a result of old age the applicant would be less able to fend for him or herself as provided in paragraph 10:13 above. All applications from people aged over 60 needs to be considered carefully, particularly where the applicant is leaving tied accommodation. However, housing authorities should not use 60 (or any other age) as a fixed age beyond which vulnerability occurs automatically (or below which it can be ruled out); each case will need to be considered in the light of the individual circumstances.

10:16 Housing Authorities should have regard to any advice from medical professionals, social services are current providers of care and support. In cases where there is doubt as to the extent of any vulnerability authorities may also consider seeking a clinical opinion. However, the final decision on the question of vulnerability will rest with the housing authority. In

considering whether such applicants are vulnerable, authorities will need to take account of all relevant factors including:

- The nature and extent of illness and/or disability and the individual's housing difficulties; and
- The relationship between the illness and/or disability and the individual's housing difficulties; and
- The relationship between the illness and/or disability and other factors such as drug/alcohol misuse, offending behaviour, challenging behaviours, age and personality disorder.

Mrs Sheridan indicated on the completed medical form that she suffers from depression and hay fever and that she has been prescribed 'Serina' and anti histamine. Mrs Sheridan did not provide any medical evidence to support this claim and I have been unable to locate the GP surgery as detailed on her medical form, to verify these details. I have also been unable to find any details regarding an anti depressant called 'Serina'.

Due to Mrs Sheridan not providing any medical evidence to support her medical conditions, despite a written reminder sent on 18th August 2010, I cannot substantiate her claims of a medical condition.

For these reasons and taking into consideration the Code of Guidance, Housing Act, 1996, Part VII as amended by the Homeless Act 2002 and applying the Pereira test, I am of the belief that Mrs Sheridan would not be less able to fend for herself than an ordinary homeless person, whilst homeless or threatened with homelessness.

4) a person aged 16 or 17 who is not a 'relevant child' or a child in need to whom a local authority owes a duty under Section 20 of the Children Act 1989;

Mrs Sheridan has not provided proof that this statement applies to her..

5) a person under 21 who was (but is no longer) looked after, accommodated or fostered between the ages of 16 and 18 (except a person who is a 'relevant student');

Mrs Sheridan has not provided proof that this statement applies to her.

6) a person aged 21 or more who is vulnerable as a result of having been looked after, accommodated or fostered (except a person who is a 'relevant student');

Mrs Sheridan has not provided proof that this statement applies to her..

7) a person who is vulnerable as a result of having been a member of her Majesty's regular naval, military or air forces;

Mrs Sheridan has not provided proof that this statement applies to her..

- 8) a person who is vulnerable as a result of:
- a. having served a custodial sentence;
 - b. having been committed for contempt of court of any other kindred offence, or;
 - c. Having been remanded in custody;

Mrs Sheridan has not provided proof that this statement applies to her..

- 9) A person who is vulnerable as a result of ceasing to occupy accommodation because of violence from another person or threats or violence from another person which are likely to be carried out;

Mrs Sheridan has not provided proof that this statement applies to her.

- 10) A person who is vulnerable for any other special reason, or with whom such a person resides or might reasonably be expected to reside;

Mrs Sheridan has not provided proof that this statement applies to her.

- 11) A person who is homeless, or threatened with homelessness, as a result of any emergency such as flood, fire or other disaster.

Mrs Sheridan has not provided proof that this statement applies to her.

Conclusion

In taking into consideration whether inquiries are necessary, there was nothing to indicate on Mrs Sheridan's Housing Options Application Form that she would experience difficulties in providing requested documentation. I have taken all of Mrs Sheridan's circumstances into account and taken a composite view, using our own investigations as well.

Given the normal channels of seeking confirmation to verify Mrs Sheridan's identity and status and priority need, I am not satisfied that she is not a person from abroad or a person who is not subject to immigration control and based on this information.

A preliminary decision was provided to Mrs Sheridan, her solicitors and advocates advising that this was the possible outcome and they were given the opportunity to provide additional information prior to the final Section 184 decision being made. This was issued on the 17th September 2010 allowing 14 days for the information to be provided. However to date this information remains outstanding.

DECISION

Not Eligible S 185

I am satisfied that the applicant is not eligible for assistance.

Code of Guidance 5.3

I have not received a copy of current British Passport or birth certificate to support that the applicant is eligible.

Homeless S 175(2)b

The applicant has a mobile structure, but she has nowhere she is permitted or entitled to both place and reside in it.

Code of Guidance 8.17

The applicant has accommodation, which consists of a mobile structure, but she has nowhere she is permitted or entitled to both place and reside in it. She is currently residing at Dale Farm which is an illegal traveller site.

Not In Priority Need S189 (1)(d)

I am satisfied that the applicant is not deemed vulnerable due to medical needs or reside with a person who is pregnant or has dependent children.

Code of Guidance 10.2 (ii)

The applicant is not a person deemed vulnerable due to her medical need or resides with a person who is pregnant or has dependent children.

Mrs T Bath
Housing Options & Homelessness Officer
1st October 2010.

Margaret Sheridan
4 Camilla Drive
Oak Lane
Dale Farm
Billerica
Essex CM11 21YH

7 October 2010

Mrs T Bath
Housing Services
Basildon District Council
Basildon Centre
St Martin's Square
Basildon SS14 1DL

Dear Mrs Bath

Thank you for your letter of 1 October 2010.

I do not agree with the decision reached as I am not a person from abroad or a person who is subject to immigration control, and your decision is wrong in this respect

I am therefore asking for a review.

Yours sincerely,

Margaret Sheridan

Mrs M Sheridan
4 Camilla Drive
Oak Lane
Billericay
Essex
CM11 2YH

Date 17.9.10
Please ask for Mrs T Bath
Department **HOUSING SERVICES**
Tel. No 01268 294073
Ref 3942

HOUSING ACT 1996 PART VII – (AS AMENDED 2002)

Dear Mrs Sheridan

Further to your homeless application of 12th July 2010.

I am now in a position to give you a decision. Unfortunately, the decision is likely to be an adverse one, as I believe you are homeless, but not eligible or in priority need. The reason for my decision is as follows

Please see the enclosed report.

In light of my findings, I am offering you the opportunity to provide any further information before a final decision is made.

If you have any further information you would like me to consider, please provide this by 1st October 2010.

Yours Sincerely



Homelessness Officer

c.c Gratton Puxon ✓
c.c Kate Lomax, Davies Gore, Lomax Solicitors



PRELIMINARY CASE REPORT
IN RESPECT OF

Margaret Sheridan

FAMILY UNIT: Margaret Sheridan DOB 7.12.57

REASON FOR HOMELESSNESS:

The applicant has accommodation, which consists of a mobile structure, but Mrs Sheridan has nowhere she is legally permitted or entitled to place it and reside in it.

BACKGROUND TO CASE:

Mrs Margaret Sheridan made a homeless application to Basildon District Council on the 12th July 2010 having been served with an eviction notice to vacate the unauthorised Travellers site at 5 Dale Farm, Crays Hill, CM11 2YH.

I considered the following paragraphs in the Code of Guidance 2006 to determine whether this Authority owes a duty towards Mrs Sheridan.

8:14 The burden of making inquiries rests on the Local Housing Authority. It is for the Local Housing Authority to make the inquiries necessary to 'satisfy' itself whether the applicant is 'eligible' and then, if satisfied that she or he is eligible, to make the inquiries necessary to satisfy itself whether any duty is owed under HA 1996, Part VII.

8:24 The LHA is not required to accept what the applicant says at face value. However, if the applicant's response raises a relevant matter of fact, the Local Housing Authority is not prepared simply to accept, the Local Housing Authority must investigate it.

10.4 But nowadays the modern statutory regime contains sophisticated exclusions provisions. The general rule, that homeless assistance is available to all, is preserved. However the HA 1996, at S185 & S186, provides for the exclusion of specific categories of applicants. As a result eligibility is defined in the negative. A person is not excluded from homeless assistance unless caught by the provisions of either Housing Act 1996.